

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA. CRIMINAL NO. 08-10071-RGS

V. . BOSTON, MASSACHUSETTS
. APRIL 29, 2008

BRIMA WURIE
Defendant

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TRANSCRIPT OF DETENTION HEARING
BEFORE THE HONORABLE JUDITH G. DEIN
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

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Proceedings recorded by electronic sound recording,
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I N D E X

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P R O C E E D I N G S

CASE CALLED INTO SESSION

THE CLERK: On April 29, the year 2008, in the matter of the United States of America v. Brima Wurie, Criminal Case No. 2008-10071. Will counsel please identify themselves for the record.

MS. LUNDGREN: Good afternoon, Your Honor, Gretchen Lundgren for the United States.

MR. BENZAN: Good afternoon, Your Honor, John Benzan, for Brima Wurie.

THE COURT: Okay. We're here on the issue of detention.

MS. LUNDGREN: That's correct, Your Honor, the government is ready to proceed.

THE COURT: Okay. Is defendant ready as well?

MR. BENZAN: Yes, Your Honor, yes, we're ready.

THE COURT: Will you call your first witness, please?

MS. LUNDGREN: Your Honor, the government calls Sergeant Detective Paul Murphy.

GOVERNMENT WITNESS, PAUL MURPHY, SWORN

THE CLERK: Please state your full name, spelling your last name for the record.

THE WITNESS: Good afternoon, Your Honor. My name is Paul Murphy, Jr., last name is spelled M-U-R-P-H-Y.

MS. LUNDGREN: And if Your Honor would like, I have

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1 pre-marked some exhibits which I expect will be accepted by
2 the Court. I have a courtesy copy for if you'd like to follow
3 along as we introduce them. I've given the same copy to
4 defense counsel.

5 THE COURT: Thank you.

6 DIRECT EXAMINATION

7 BY MS. LUNDGREN:

8 Q Good afternoon, sir.

9 A Good afternoon.

10 Q Sergeant Detective Murphy, could you tell us how you are
11 employed?

12 A I'm a sergeant detective with the Boston Police
13 Department.

14 Q And how long have you been with the Boston Police
15 Department?

16 A 23 years.

17 Q And in particular, how long have you focused on drug
18 investigations?

19 A Off and on probably 13 years, I suppose.

20 Q When did you join the drug control unit?

21 A Initially I believe about 1991, 1992, I was there for two
22 years, nights, when it was city-wide, the whole thing was city-
23 wide. And they broke it up into different divisions and I went
24 to Mattapan for two years nights, I made sergeant and from
25 there I went to the gang unit and then I went back to the drug

1 unit in 2000 and I've been there since as a sergeant
2 detective.

3 Q Okay. Sergeant Detective Murphy, I'd like to ask you some
4 basic questions about your experiences. Are you familiar with
5 what's called a motor vehicle drug delivery?

6 A Yes.

7 Q And could you please explain what that is?

8 A. It's still one of the more popular methods by which the
9 drugs are sold in different sections of the city. A buyer will
10 contact a dealer via cell phone and the amount of drugs and the
11 location of the purchase or the meeting spot rather will be
12 arranged, and the buyer will either await the dealer's arrival
13 on foot or in a motor vehicle. In a case like this if a buyer
14 is waiting on foot, generally the buyer will enter the car of
15 the dealer and take what we commonly term a meaningless ride,
16 like a ride up the street and back or a ride around the block
17 or maybe a ride from one MBTA station to another when they
18 could have taken the bus or the train, something that doesn't
19 make sense, and the deal is done within the car and the two
20 part ways and go and leave.

21 Q. Okay. And what's your understanding as to why the deal
22 takes place in the car as opposed to anywhere else?

23 A. To avoid surveillance. It's moving and obviously you
24 can't see their hands or body in the car while they're passing
25 money and narcotics.

1 Q. And, sergeant, in your line of work have you personally
2 had experience with a motor vehicle drug delivery?

3 A. Yes.

4 Q. Can you please explain that?

5 A. I've done it myself. I've gotten into cars and bought
6 drugs from people that they obviously didn't know that I was
7 the police, but I have lots of informants that I pay money to
8 and nightly I have all these dealers. I've got to watch them
9 get into a car with a dealer and take a ride and come back, and
10 they give me the drugs, and then we'll get the license plate of
11 the dealer. We'll follow him home. Or in an instance like
12 this, I mean, I don't know, easy over 1,000 arrests of people
13 buying drugs by means of a motor vehicle. So it's something
14 I've seen a lot.

15 Q. Okay. And also, Sergeant Detective Murphy, given your
16 training experience, have you made arrests, and are you
17 familiar with marijuana?

18 A. Yes.

19 Q. And are you familiar with the smell of marijuana?

20 A. Yes.

21 Q. And can you please explain the experience you've had with
22 the smell of marijuana?

23 A. Well, it's a distinctive odor characteristic only of that
24 substance. I don't think it can even be mistaken for anything
25 else. It's almost, I always say when I ask the question, it's

1 almost like what does milk taste like? It tastes like milk,
2 nothing else. It's like what does marijuana taste like, smell
3 like it? It smells like marijuana.

4 Q. Okay. So is it fair to say then you've had experience
5 during drug investigations to experience the smell for
6 marijuana?

7 A. Yes.

8 Q. Okay. Sergeant Detective Murphy, I'd like to turn your
9 attention to September 5th of 2007; were you working that
10 evening?

11 A. Yes.

12 Q. What shift do you typically work?

13 A. 4 p.m. to 11:45 p.m.

14 Q. Okay. And at around 6:45 on that evening can you please
15 tell us where you were located?

16 A. In the area of Andrew Square in South Boston.

17 Q. What, how were you attired?

18 A. I was in plain clothes and in an unmarked vehicle.

19 Q. Okay. And as you were in that Andrew Square area please
20 tell us what you observed.

21 A. I observed a gentleman standing in the parking lot of the,
22 at the time it was a Lil' Peach variety store, now it's a
23 Tedeschi's, and I began to watch him.

24 Q. All right. And what drew your attention to that
25 individual?

1 A. In the square as it is an extremely busy area for drug
2 meets because there's an MBTA station across the street and
3 there's a couple, there's a variety store, and a pizza store
4 and a Dunkin' Donuts, and people always try to blend in there
5 and make drug deals. We've probably caught I'd say over 350
6 people buying and selling drugs in there, right in that little
7 section of South Boston. So that's a place where we routinely
8 patrol, and if we see somebody standing there and they look
9 like they're watching for a car, we'll hide and wait and watch
10 and see if a drug deal happens.

11 Q. Okay. And so were you watching from inside of your car?

12 A. Yes.

13 Q. And how far approximately were you from this individual?

14 A. I had moved a couple times so I don't remember, but just
15 close enough so I could see him.

16 Q. Okay. And at some point in time did you see him interact
17 with somebody else?

18 A. Yes.

19 Q. Please tell us what you observed.

20 A. Brima Wurie here, this gentleman off to my right, with a
21 white t-shirt beside Mr. Benzan, he arrived in a white Nissan
22 Altima, brand new car. He pulled up to the parking lot and let
23 Mr. Wade get into the car beside him.

24 Q. Okay, and Mr. Wade being who?

25 A. Fred Wade, that's the gentleman that I was watching.

1 Q. Okay. So ultimately you learned his identity at a later
2 time?

3 A. Yes, he's a middle-age, black gentleman, Fred Wade.

4 Q. Okay. So he got into the car operated by Mr. Wurie?

5 A. He did.

6 Q. And once he got into the car was that the front passenger
7 side?

8 A. He did, yes.

9 Q. What happened next?

10 A. The car turned right onto Dorchester Avenue and then
11 traveled up the street towards D Street, and at one point it,
12 Mr. Wurie, obviously he'd be the only one who'd have access to
13 it, activated the left directional and began a U-turn but then
14 stopped at U-turn and went a little bit further up the street.
15 Then he U-turned and came back. So he basically went about 150
16 yards up D, up Dorchester Avenue, U-turned and came back and
17 dropped Mr. Wade back about 30 feet from where he initially
18 picked him up. So he gave him one of these meaningless rides
19 that we talk about.

20 Q. Okay. Where were you during the time that the Altima took
21 this path of travel?

22 A. I followed them.

23 Q. And were you, how close to the car were you?

24 A. A little ways back, I mean, we never follow right on their
25 bumper, but there was no other cars between myself and Mr.

1 Wurie.

2 Q. So you were directly behind Mr. Wurie's car?

3 A. Yes.

4 Q. And as you were behind Mr. Wurie's car, were you able to
5 see in the passenger compartment at all?

6 A. I could see the back of their heads. I could see
7 movement, and I could see Mr. Wade raise up a little bit,
8 almost as if somebody would be reaching into a pants pocket,
9 but I couldn't see his hands or anything.

10 Q. Okay. So you weren't able to see what was going on with
11 either individual's hands within the car?

12 A. No.

13 Q. Now, when Mr. Wade got out of the vehicle, you say it was
14 in nearly the same location that he entered?

15 A. Yes.

16 Q. What did Mr. Wade do?

17 A. He walked into a Lil' Peach variety store.

18 Q. Okay. And did you see where the Altima went at that
19 point?

20 A. He drove away towards the main intersections of Dorchester
21 Street, Dorchester Avenue, South Hampton and Cowell, which is
22 Andrews Square.

23 Q. Okay, and just to be clear is that still be driven by Mr.
24 Wurie?

25 A. Yes.

1 Q. All right. So when Mr. Wade went into Lil' Peach
2 convenience store what did you do?

3 A. I went in after him, and I had summonsed other squad
4 members to the area because I saw, what I was witnessing I
5 believed to be a drug deal. So Officer Steven Smigliani
6 arrived and dropped off Officer Christopher Boyle, squad
7 members. And Boyle and I went into the Lil' Peach and spoke
8 with Fred Wade. Smigliani followed the Altima operated by Mr.
9 Wurie out of the area.

10 Q. Okay. Now with sticking with Mr. Wade for a second, what
11 did you do once Officer Boyle joined you?

12 A. Told him I was a police and I recovered two eight balls of
13 crack cocaine from his left front pants pocket.

14 Q. Okay, and what's an eight ball of crack cocaine?

15 A. 3.5 grams of cocaine.

16 Q. And I'm sorry could you just again tell us where they were
17 found on Mr. Wade?

18 A. In the pants pocket of Mr. Wade.

19 Q. Okay. And did you have an opportunity to speak with Mr.
20 Wade about where those drugs came from?

21 A. I did.

22 Q. And what did he say?

23 A. I told him his rights. Then I told him he didn't have to
24 say, I said another word, you don't have to say anything. Do
25 you understand? He said, yes. He told me that he just bought

1 them from the man in the car. He called him B, B as in boy.

2 And I asked him some more questions.

3 Q. Okay, and what else did he say regarding purchasing drugs?

4 A. He said that he only sells weight which is larger amounts
5 of drugs. I said what's the smallest he'll sell? He says the
6 smallest he'll sell is an eight ball. I said, where does he
7 live? He said I don't know where he lives, but he lives
8 somewhere in South Boston. He said, I meet him in South Boston
9 all the time because he lives here but sometimes I'll meet him
10 at his father's house in Dorchester. And he said that was on
11 the street off of Topples Street, and they'll have to wait for
12 him there because he's probably driving from South Boston to
13 meet him.

14 Q. Okay. And what happened to Mr. Wade at that point in
15 time?

16 A. He was summonsed into the South Boston Court and charged
17 with possession of Class B, crack cocaine.

18 Q. Okay. And what happened with the drugs?

19 A. They were submitted to the state lab for analysis.

20 Q. All right. So once you had that encounter with Mr. Wade,
21 did you communicate that with Officer Smigliani who was
22 following Mr. Wurie?

23 A. Yes. Officer Smigliani was made aware of the results of
24 the stop of Mr. Wade.

25 Q. Okay. And as a result to that what happened?

1 A. He told me that he watched Mr. Wade U-turn on Dorchester
2 Street and park near the corner of Silva Street, and he told me
3 that, you know, Smigliani was in a pick-up truck, a gray pick-
4 up truck and he was dressed, you know, in jeans and boots and
5 like a t-shirt or something, whatever. And Mr. Wurie looked at
6 him and said, is it okay to park here, which I don't know why
7 he would do that unless he suspected it was the police, but --

8 MR. BENZAN: Objection.

9 THE COURT: That's stricken.

10 A. So anyways he went up, Mr. Officer Smigliani and some
11 arriving C-6 units arrest him for distribution of cocaine to
12 Mr. Wade.

13 BY MS. LUNDGREN:

14 Q. Okay. and then what happened with Mr. Wurie once he was
15 arrested?

16 A. He was brought to District 6 and booked.

17 Q. Okay. And what typically happens with the motor vehicle
18 that somebody is driving involved in a drug transaction?

19 A. We drive it back to the station and we search it.

20 Q. Okay. and is that what happened in this case?

21 A. Yes.

22 Q. And can you tell me with regard to Mr. Wurie, was there a
23 search incident arrest made to Mr. Wurie?

24 A. Yes.

25 Q. And are you aware of what was recovered from Mr. Wurie?

1 A. Yes.

2 Q. And what was that?

3 A. I believe it was \$1,275, two cell phones and some keys.

4 Q. Okay. Sergeant Detective Murphy, in front of you do you
5 have a copy of the government's pre-marked exhibits?

6 A. Yes.

7 Q. And do you see what we've pre-marked as Exhibit No. 1?

8 A. Yes.

9 Q. Is it fair to say that Exhibit No. 1 is a copy of the
10 police report describing the incident that you've just
11 testified to as well as some drug control unit forms regarding
12 the drugs seized from Mr. Wade and the money seized from Mr.
13 Wurie?

14 A. Yes.

15 Q. And are those fair and accurate copies of those documents?

16 A. Yes.

17 MS. LUNDGREN: Your Honor, I'd like to move to
18 introduce Government's Exhibit 1.

19 THE COURT: Any objection?

20 MR. BENZAN: No objection.

21 THE COURT: Marked as Exhibit 1.

22 GOVERNMENT EXHIBIT NO. 1, MARKED AND ADMITTED

23 MS. LUNDGREN: Thank you.

24 BY MS. LUNDGREN:

25 Q. Sergeant Detective Murphy, once Mr. Wurie had been placed

1 under arrest did you have an opportunity to speak with him
2 down at the station?

3 A. I did.

4 Q. And could you please describe for us the conversation you
5 had with him?

6 A. I told him his rights again, and then I did in similar
7 fashion what I say to everybody I arrest, I say, in other
8 words, you don't have to say a thing. And I asked him if he
9 understood, and he said yes. I asked him his name and where he
10 lived. And then I asked him about his business in South
11 Boston.

12 Q. And what did he, how did he respond about why he was in
13 South Boston?

14 A. He lives at, I think he said he lives at 51 Skeenwell
15 Street in Dorchester, and he said he was in South Boston
16 because he was just cruising around.

17 Q. Okay. did you ask him whether or not he had been at the
18 Lil' Peach or in that area?

19 A. I did; I asked him if he had stopped in there, if he met
20 with anybody, if he had anybody in his car. Did you talk to
21 anybody? Those questions, he denied at each time. He said,
22 no, I didn't, no.

23 Q. Okay. And were there other officers working on this
24 investigation with you other than Officer's Boyle and Smigliani
25 as you've already described?

1 A. Yes.

2 Q. And who were those officers?

3 A. Robert England and Kevin Jones.

4 Q. And is it your understanding that either Officer Jones or
5 Officer England had any opportunity to look at the cell phones
6 which were seized incident to arrest which you've just
7 described?

8 A. Yes.

9 Q. And what's your understanding of any information obtained
10 from the cell phones?

11 A. Officer Jones informed me that he noted a phone number
12 within Brima Wurie's cell phone under the heading my house and
13 that he recorded that phone number.

14 Q. Okay. And so there's a phone number attached with that
15 heading my house?

16 A. Yes.

17 Q. And did he also have an opportunity to look at what you
18 might call the wallpaper on a phone number; that being the
19 picture that appears when you flip open your cell phone?

20 A. Yes.

21 Q. And what appeared on that photo?

22 A. A photo of a lady back here.

23 Q. Okay.

24 A. And with a baby.

25 Q. Okay. And did you subsequently come to learn that

1 individual's identity?

2 A. Yolanda Walker.

3 Q. So Officer Jones conveyed the information to you about the
4 phone number that he found as well as the picture?

5 A. He told me about it, yes.

6 Q. Okay, and did, once he obtained the phone number
7 associated with the heading my house, do you know if he did
8 anything with that phone number?

9 A. He did.

10 Q. What was that?

11 A. He went onto a website that we all have access to. It's
12 called anywho. It's almost like typing in Google; when you get
13 to Google website you type in A-N-Y-W-H-O and you can search
14 phone numbers and things like that, like anyone of us can do
15 it. You go home tonight and do it.

16 Q. Okay. And when he placed that phone number into anywho
17 did he receive some information back?

18 A. He did.

19 Q. And what's your understanding of what he received?

20 A. He told me it came back to a person named Crystal at 315
21 Silva Street, Silva Street being the street near where he had
22 parked on the corner of Dorchester Street.

23 Q. Where Mr. Wurie had parked?

24 A. Yes.

25 Q. Okay. And after receiving that information what did you

1 do next?

2 A. On learning that, I saw the keys that Mr. Wurie had had
3 and I had other squad members come with me and I went to see
4 where 315 Silva Street was--

5 Q. Okay.

6 A. --in South Boston.

7 Q. And so the keys that you're referring to are those keys
8 that were taken again incident to arrest?

9 A. Yes.

10 Q. And they were on his person?

11 A. Yes.

12 Q. And just very briefly, Sergeant Detective Murphy, going
13 back to the car do you know whether or not or who owned that
14 car?

15 A. It was a rental vehicle from one of the more popular
16 companies; I don't remember which one.

17 Q. Okay. And in your experience in the drug unit, is it
18 typical for you to encounter rental cars?

19 A. We do often, yes.

20 Q. Okay. So again, once you had those keys from Mr. Wurie
21 please explain to us what you did.

22 A. Just drove to Silva Street and, you know, I'm familiar
23 with the area. I knew where that was. I wanted to see where
24 315 Silva Street is, and that's right down from Dorchester on
25 the left hand side. And Silva Street is a very small street

1 with really no parking at all. It's like there's no lawns on
2 the houses and the houses come right up to the sidewalk, and
3 it's extremely narrow; it's like a long driveway really. So we
4 pulled up past the house in an area where the car was able to
5 get off the road, and I walked up to the house by myself. I
6 left other squad members in the car, and I looked at the house.

7 Q. Okay, what type of house was it?

8 A. Three family.

9 Q. And again you said that you pulled right up to the
10 sidewalk, no yard?

11 A. No, house just meets, house meets the sidewalk, no yard.

12 Q. Okay. And approximately what time of night was this?

13 A. I don't remember but it was dark.

14 Q. And being dark were you able to see anything once you were
15 looking at the house?

16 A. Yes.

17 Q. What did you see?

18 A. There were some mailboxes attached to the exterior.

19 Q. And did you look at the names on the mailboxes?

20 A. I did.

21 Q. What did you see?

22 A. For Apartment 1 the name Crystal and the phone number was
23 on it and written in ink and then Wurie, his last name, W-U-R-
24 I-E.

25 Q. Okay. So that was on the exterior of the house?

1 A. Yes.

2 Q. And were you able to see in any of the windows?

3 A. You could see clearly into the first floor because the
4 lights were on.

5 Q. On?

6 A. And then the windows were right there.

7 Q. Okay. And when you looked in the window can you please
8 tell us whether or not you saw anybody?

9 A. I could see Yolanda Walker inside the house.

10 Q. All right. What did you do after that?

11 A. I went and got other members of my squad and went up the
12 street. We walked up to the house and I tried the keys. I
13 don't remember members of my squad, I don't remember, tried the
14 keys. It probably could have been me; you'd have to read the
15 report, but opened the front door, the main front door of the
16 house with one of Mr. Wurie's keys.

17 Q. Okay. And where did that main front door lead to?

18 A. Into a small, little foyer, and once you get in there
19 there's a door to your right that goes to Apartment 1 and then
20 a door almost ahead of you to the left that accesses the second
21 and third floor stairway.

22 Q. So, Sergeant Detective Murphy, then is it fair to say that
23 you entered a common area and not somebody's residence when you
24 went through that main door?

25 A. Yes.

1 Q. Okay. So once you were in the common area please tell us
2 what you did.

3 A. I first tried the, rather than go right to Apartment 1,
4 which I thought probably was the right apartment, I just wanted
5 to be sure so I tried the keys, in the door that leads upstairs
6 just to make sure he doesn't have access up there either too,
7 you know, so none of the keys opened that door.

8 Q. Okay. After you tried that door what did you do next?

9 A. I tried the keys in Apartment 1 and turned the lock and
10 saw that it worked.

11 Q. Okay. And once you saw that it worked what did you do?

12 A. Knocked on the door.

13 Q. Okay. At any point in time using those keys did you ever
14 enter the apartment?

15 A. No.

16 Q. And what did you do with the keys once you knocked on the
17 door?

18 A. I had kept them.

19 Q. Okay, so you removed them from the lock?

20 A. Yes.

21 Q. Once you knocked on the door what happened?

22 A. Ms. Walker opened the door, and I asked her to step
23 outside rather than ask if I could come in. I spoke with her
24 briefly at the door while it was open, and I asked her to come
25 outside.

1 Q. Okay. So for some period of time the door to Apartment
2 number 1 was open?

3 A. It was.

4 Q. And did you observe or detect anything during that time?

5 A. I could smell burnt marijuana.

6 Q. And please, sir, describe for us the conversation you had
7 with Ms. Walker.

8 A. I had asked her, I told her I was there because I arrested
9 a man selling drugs. I told her the man's name, asked her if
10 she knew him; she said she did. I asked him if he stays, asked
11 her if he stays there, and she said sometimes I believe. I
12 said was he there today, and she said yes. I said did he stay
13 there last night, and she said yes. And this is what I can
14 basically remember.

15 Q. Okay. And as a result of the odor that you detected as
16 well as your conversation, what did you do next?

17 A. I entered the apartment because it was my intention at
18 this point to seek a search warrant, and we conduct what we
19 call a protective sweep just to make sure there's nobody hiding
20 behind a door or under a bed that could hurt us. And once we
21 feel that the place is secure and nobody's in there that could
22 do that we leave officers there, and I left and typed a search
23 warrant.

24 Q. Okay. So during the time that you freeze that apartment
25 are you conducting a search as well?

1 A. No.

2 Q. Once that apartment was frozen what did you do?

3 A. I typed a search warrant and had an ADA read it and then
4 submitted it to a clerk magistrate. The search warrant was
5 granted, and I went back and searched the apartment.

6 Q. Okay. Now, Sergeant Detective Murphy, was there anybody
7 else inside; when you froze the apartment was there anybody
8 else inside?

9 A. There was an infant baby asleep.

10 Q. All right, and is that it?

11 A. Yes.

12 Q. All right. So upon receiving approval to execute a search
13 warrant what did you do?

14 A. Searched the apartment.

15 Q. And, again, was that you with members of your unit?

16 A. Smigliani, Boyle and England, yes.

17 Q. All right. Now pursuant to executing the search warrant
18 did you recover anything within that apartment at 315 Silva
19 Street?

20 A. Yes.

21 Q. And, Sergeant Detective Murphy, do you have the pre-marked
22 Exhibit No. 2 in front of you?

23 A. It's right here, yes.

24 Q. And is it fair to say that that contains a police report
25 regarding your search as well as again drug control unit forms

1 regarding seized money, drugs--

2 A. That's --

3 Q. --the search warrant and the return?

4 A. --yes.

5 Q. Are those fair and accurate copies of those documents?

6 A. Yes, they are.

7 Q. And, sir, if I could just have you turn to the last page
8 of the exhibit, what we typically call the return, does that
9 list the items that you seized?

10 A. Yes.

11 Q. Okay. And without touching every single item did you
12 recover drugs within the apartment?

13 A. Yes.

14 Q. And approximately how much drugs did you recover?

15 A. At the time we listed as two large plastic bags with over
16 150 grams of crack cocaine, that we've since learned is over
17 200. Plastic, oh, I'm sorry --

18 Q. All right. Sir, let me just stop you right there to
19 describe to the Court where you found that large amount of
20 crack cocaine.

21 A. It was in a nightstand beside the bed in the master
22 bedroom of this apartment to the left as you face it.

23 Q. Okay, and did you recover any weapons?

24 A. Yes.

25 Q. And ammunition?

1 A. Yes.

2 Q. And where did you recover those?

3 A. They were recovered, my squad members, there was a sock
4 with 40, 6 40-caliber hollow point rounds in it and a Starline
5 9mm Smith & Wesson pistol which was loaded with I believe five
6 rounds and that was in a closet opposite that bed that I just
7 mentioned within the master bedroom.

8 Q. Okay. Now you had said earlier that you smelled burnt
9 marijuana. Did you find any marijuana within the apartment?

10 A. Yes, we did.

11 Q. And where did you find that?

12 A. Some of it was in a tupperware plastic container, and some
13 of it was in a white bag in the same closet that the gun and
14 the 40-caliber rounds were in. And I also believe that there
15 was some in, right beside the bed on the other nightstand or
16 table, what have you, over to the right as you face the bed.

17 Q. Okay the same master bedroom?

18 A. The same one, yes.

19 Q. All right. Did you find any remnants of any marijuana
20 that had been smoked or burnt?

21 A. I believe there was marijuana residue. There was cigars
22 that are commonly used to package to roll marijuana to smoke
23 in, I remember that.

24 Q. Okay. Now, Sergeant Detective Murphy, with regard to
25 personal papers, things like that, did you find anything?

1 A. There were personal papers in the name of both Brima
2 Wurie and Yolanda Walker as well as photos of both people.

3 Q. Okay and with regard to, again, items found in the master
4 bedroom, was there clothing?

5 A. There was.

6 Q. And could you please describe what types of clothing were
7 in the master bedroom?

8 A. A man's clothing and woman's clothing.

9 MS. LUNDGREN: Your Honor, the government would seek
10 to introduce Exhibit No. 2.

11 THE COURT: Any objections?

12 MR. BENZAN: No objection, Your Honor.

13 THE COURT: Marked as Exhibit 2.

14 GOVERNMENT EXHIBIT NO. 2, MARKED AND ADMITTED
15 BY MS. LUNDGREN:

16 Q. Sergeant Detective Murphy, do you have Exhibit No. 3
17 before you which the government has pre-marked?

18 A. I do.

19 Q. What happened to the gun and ammunition once it was seized
20 as a result of that execution of your search warrant?

21 A. It's placed in a gun locked grid area of C-6 and is
22 transported to the Boston Police Ballistics Unit at 1 Trump
23 Plaza and tested.

24 Q. Okay and is it your understanding that the certificates in
25 Exhibit 3 relate to the gun which you seized?

1 A. Yes.

2 Q. And the ammunition as well?

3 A. Yes.

4 Q. And is it fair to state that the Boston Police Department
5 found out the gun and the ammunition, in fact, were a gun and
6 ammunition under the statute?

7 A. Yes.

8 Q. If I could have you turn to the fourth page of that
9 document; do you recognize what that is?

10 A. Yes.

11 Q. And is that from the Boston Police Department, Latent
12 Print Unit?

13 A. Yes.

14 Q. And is it fair to say that no linked prints were recovered
15 from that firearm?

16 A. Yes.

17 Q. And lastly, Sergeant Detective Murphy, you had mentioned
18 that the gun had been stolen; is that correct?

19 A. Yes.

20 Q. And of the last page of that exhibit described the trace
21 performed by the ATF regarding where that weapon had been
22 stolen from?

23 A. Yes.

24 Q. And do you know what state it was stolen from?

25 A. Georgia.

1 MS. LUNDGREN: Your Honor, the government would seek
2 to introduce Exhibit No. 3.

3 THE COURT: Any objection?

4 MR. BENZAN: Your Honor, I would just object to the
5 portion of page 4. Actually, it's page 5, the section that's
6 entitled Recovery Information. It's entitled Possessor, and it
7 has my client's name on there. I would ask that that be made
8 by the record or would that be too much?

9 THE COURT: All right. I'll accept the document
10 recognizing your concern about that entry.

11 MR. BENZAN: Thank you, Your Honor.

12 THE COURT: Mark this Exhibit 3.

13 GOVERNMENT EXHIBIT NO. 3, MARKED AND ADMITTED
14 BY MS. LUNDGREN:

15 Q. Sergeant Detective Murphy, what's your understanding with
16 regard to what happened to the drugs that you seized from 315
17 Silva Street?

18 A. They were placed in a drug safe area C6 and brought to the
19 Boston Police Drug Evidence Holding Facility in Hyde Park by
20 drug depository personnel and from there they're conveyed to
21 the state lab for analysis.

22 Q. Okay. And again that's also happened with the drugs taken
23 from Mr. Wade on that evening?

24 A. Yes.

25 Q. Okay. And you have before you, sir, a pre-marked Exhibit

1 No. 4?

2 A. I do.

3 Q. And are these the analysis certificates from the lab
4 indicating the testing conducted on the drugs you submitted?

5 A. Yes.

6 Q. And is it fair to say that the first pages are the drugs
7 recovered from Mr. Wade?

8 A. Yes.

9 Q. And the second page are the drugs recovered from 315 Silva
10 Street?

11 A. Yes.

12 Q. And just if you could explain to the Court, how, what
13 weight of drugs were seized from Mr. Wade?

14 A. Two bags from Mr. Wade, the two eight balls of cocaine
15 weighed 6.40 grams. They were found to be cocaine base.

16 Q. Okay. And looking at the second certificate the drugs
17 used from 315 Silva Street, what was the weight of those drugs?

18 A. 215.80 grams cocaine base.

19 MS. LUNDGREN: Your Honor, the government seeks to
20 introduce Exhibit No. 4.

21 MR. BENZAN: No objection, Your Honor.

22 THE COURT: Marked as Exhibit 4.

23 GOVERNMENT EXHIBIT NO. 4, MARKED AND ADMITTED

24 BY MS. LUNDGREN:

25 Q. Sergeant Detective Murphy, after executing the search

1 warrant at 315 Silva Street, did you have an opportunity again
2 to speak with Mr. Wurie?

3 A. I remember speaking to him another time, yes.

4 Q. Okay. And do you remember your conversation with him?

5 A. I remember asking him at one point why the keys from his
6 ring fit Apartment 1--

7 Q. And --

8 A. --at 315 Silva Street.

9 Q. --what was his response?

10 A. I believe he said I don't know or something along those
11 lines.

12 Q. Sergeant Detective Murphy, since becoming involved in this
13 case have you had an opportunity or have you become aware of
14 previous convictions of Mr. Wurie?

15 A. He was showing me some, yes.

16 Q. Okay. And you have pre-marked Exhibit No. 5 before you?

17 A. I do.

18 Q. And are these a series of convictions from various courts
19 for violent offenses such as assault and battery dangerous
20 weapon, assault and battery, resisting arrest--

21 A. Yeah, yes they are.

22 Q. --such as those? In particular, Sergeant Detective
23 Murphy, are you aware of an incident, have you become aware of
24 an incident which occurred on September 8th, 2002 in Boston?

25 A. I had heard about it before, but I just read this police

1 report too.

2 Q. Okay. So is it fair to say that basically it involves in
3 the bottom, right-hand corner of page 120 there's a Boston
4 police report of that date?

5 A. On page 120?

6 Q. Yes.

7 A. Yes.

8 Q. Actually 120 through 122, is that two different police
9 reports?

10 A. Yes.

11 Q. Regarding the same incident?

12 A. Yes.

13 Q. And if you could just very briefly describe for us your
14 understanding of the incident which occurred on September 8th,
15 2002?

16 A. That Mr. Wurie led the police on a motor vehicle chase.
17 He was the operator of a white, Ford Taurus. And at one point
18 he struck a uniformed Boston police officer and fled the scene.

19 Q. All right.

20 A. The car was later found abandoned.

21 Q. Now as a result of that incident, are you aware that as
22 indicated in the certified copy of conviction following that
23 that Mr. Wurie was convicted for assault and battery with a
24 dangerous weapon--

25 A. Yes.

1 Q. --as well as an accessory after charged related to an
2 assault?

3 A. Yes.

4 Q. And are you also aware that he was on probation for that
5 matter when you arrested him on September 5th, 2007?

6 A. Correct.

7 MS. LUNDGREN: Your Honor, the government would seek
8 to introduce Exhibit No. 5.

9 THE COURT: Any objection?

10 MR. BENZAN: No objection.

11 THE COURT: Marked as Exhibit 5.

12 GOVERNMENT EXHIBIT NO. 5, MARKED AND ADMITTED

13 BY MS. LUNDGREN:

14 Q. And lastly, Sergeant Detective Murphy, we do have
15 government's pre-marked Exhibit No. 6 before you.

16 A. I have 5, 6 might be in some envelope. I'll see if I have
17 a copy of it. I don't know if I've got 6.

18 Q. Okay.

19 MS. LUNDGREN: May I approach, Your Honor?

20 THE COURT: Yes.

21 A. Okay.

22 BY MS. LUNDGREN:

23 Q. Sergeant--

24 MR. BENZAN: I'm sorry, Your Honor, if can we go back
25 to Exhibit 5. There were, there's included there pages of

1 documents not testified so I would object to--

2 THE COURT: You can examine; I am assuming that these
3 are records that are reflected. Maybe I shouldn't assume, but
4 are these documents that are reflecting arrests that are in
5 the--

6 MS. LUNDGREN: Absolutely, they're certified copies
7 of convictions aside from the two Boston police incident
8 reports which I pointed out through Sergeant Detective Murphy's
9 testimony, but other than that they're all certified copies of
10 convictions as obtained from various courts.

11 THE COURT: Okay. and these are all reflected in his
12 arrest record?

13 MS. LUNDGREN: They're all within the BOP, that's
14 correct.

15 THE COURT: All right. I'll let it counsel, I'll
16 accept that representation.

17 MR. BENZAN: Thank you.

18 BY MS. LUNDGREN:

19 Q. Now Sergeant Detective Murphy, very briefly with regard to
20 Exhibit No. 6, have you had an opportunity as a result of
21 preparing for this detention hearing to see that police, to see
22 that exhibit?

23 A. Yes.

24 Q. And what is that?

25 A. It's a copy of a Boston police report that's dated

1 7/17/2007 with Mr. Wurie's name on it.

2 Q. Okay. And does that involve an incident; does that
3 involve, is that incident involving Mr. Wurie from that date?

4 A. Yes.

5 Q. And could you please very briefly again summarize the
6 incident as recorded in the Boston police report?

7 A. Apparently Mr. Wurie and Ms. Walker, seated in the rear
8 here, had a baby together, and he went to visit her in the
9 hospital and learned that she had named the baby. He didn't
10 like the name that she chose, and he pushed her over a toilet
11 and she had back and leg pain.

12 Q. Okay. And are you aware of how this incident was
13 reported? Does it indicate in the summary there?

14 A. A detail officer, Officer McGee, was contacted by hospital
15 security if I'm answering the question correctly.

16 Q. Yes, but does it indicate, in other words, Sergeant
17 Detective Murphy, that police spoke directly with the victim of
18 this incident, Ms. Walker?

19 A. Yes.

20 Q. And that they learned--

21 A. They said Officer McGee responded to her room 1008 and
22 spoke to her, and that's what she told police.

23 Q. Okay. And are you aware of whether or not there are any
24 convictions as a result of this incident?

25 A. I believe it was dismissed.

1 MS. LUNDGREN: Your Honor, the government seeks to
2 introduce Exhibit No. 6.

3 MR. BENZAN: No objection.

4 THE COURT: Marked as Exhibit 6.

5 GOVERNMENT EXHIBIT NO. 6, MARKED AND ADMITTED

6 MS. LUNDGREN: Your Honor, the government has no
7 further questions at this time.

8 THE COURT: Cross examination.

9 MR. BENZAN: Thank you.

10 CROSS EXAMINATION

11 BY MR. BENZAN:

12 Q. Good afternoon, Sergeant.

13 A. Good afternoon.

14 Q. You admit that on September 5th, 2007, that you didn't know
15 my client, Mr. Wurie?

16 A. I did not know him.

17 Q. Hadn't you seen him before?

18 A. No, I don't think I did.

19 Q. And so on September 5th of 2007, you didn't know if at any
20 point he had been to 315 Silva Street?

21 A. No, I hadn't met him before, sir.

22 Q. So you never saw him at that address?

23 A. I don't think I did.

24 Q. And the only information that you received that night was
25 that he had slept at that address the night before?

1 A. That's incorrect.

2 Q. Well did you get that information?

3 A. I received information from Mr. Wade that this man lives
4 in South Boston, and then I --

5 Q. And my question specifically, sergeant, was on September
6 5th, 2007, you received information that he had slept at 315
7 Silva Street the night before?

8 A. I did receive that information.

9 Q. On September 5th you also received some information that he
10 was at that location earlier in the day?

11 A. Yes.

12 Q. You have absolutely no information, did not receive any
13 information during your investigation with respect to when that
14 gun was placed in that residence?

15 A. Correct.

16 Q. You have absolutely no information regarding your
17 investigation to indicate when any of the drugs that you
18 mentioned in your direct examination got placed in that
19 residence?

20 A. I don't know when they were placed there, no.

21 Q. So you don't have any personal knowledge that Mr. Brima
22 Wurie was ever in the same, in that residence, at the same time
23 as the drugs or the gun, correct?

24 A. I couldn't say that, no.

25 Q. You indicate on direct examination that Mr. Wade was, you

1 were asked what happened to Mr. Wade and you, you told us that
2 he was summonsed into South Boston District Court.

3 A. He was.

4 Q. And by that you mean he was let go?

5 A. He wasn't arrested; he was summonsed, yes.

6 Q. So that's your testimony. He wasn't arrested; he was let
7 go, and then he wasn't given a summons that day?

8 A. That's not how it works. We submit an application for
9 complaint to the court, and the court records it, sets a date
10 and mails him a summons in that manner, and then he's required
11 to respond on that date.

12 Q. So when you tell us now that he wasn't arrested, that he
13 was let go, from where is he let go?

14 A. The Lil' Peach parking lot.

15 Q. And what's that address?

16 A. I don't know the number Dorchester Avenue, but it's right
17 at the corner of Dorchester Avenue and Dorchester Street,
18 opposite the Andrews Square MBTA Station. The corner street
19 would be Leeds on one side and then Dorchester Street on the
20 other.

21 Q. But he wasn't at the, you're telling me he wasn't at the
22 intersection of Dorchester and Leeds?

23 A. It's right there; it's like from me to, uh, I don't know,
24 where Ms. Black is sitting. It's a small area; it's a smaller
25 parking lot.

1 Q. Were you at that address or that location when you were,
2 when he was stopped and then--

3 A. Well, I stopped him inside the Lil' Peach parking, Lil'
4 Peach store.

5 Q. So that's--

6 A. Right beside Leeds Street.

7 Q. It is?

8 A. Oh, yeah, yeah.

9 Q. So back, so we know now Dorchester and Leeds is where you
10 stopped Mr. Wade?

11 A. No. I stopped him inside the Lil' Peach store, and I told
12 you I didn't know the exact address so I'm just kind of giving
13 you some intersecting streets as a landmark. I can find out
14 the number Dorchester Avenue if you want, but it's the store
15 itself.

16 Q. But you're all right, is it your testimony right now that
17 the Lil' Peach store is not on corner of Dorchester and Leeds?

18 A. No, that's where it is.

19 Q. Okay

20 A. But now it's a Tedeschi's.

21 THE COURT: But you don't know the number?

22 THE WITNESS: I just--

23 THE COURT: You don't know the --

24 THE WITNESS: --don't know the exact address, Your
25 Honor.

1 BY MR. BENZAN:

2 Q. And had you seen, and you hadn't seen Mr. Wade prior to
3 this date as well?

4 A. I hadn't met any of these people before; I hadn't met Mr.
5 Wade or Mr. Wurie or Ms. Walker. I didn't know anyone.

6 Q. And he was with the second gentleman?

7 A. He was.

8 Q. And you began your direct testimony telling us that when
9 you arrived at that location that you saw Mr. Wade and you
10 focused your attention on Mr. Wade?

11 A. Yes.

12 Q. You didn't see Mr. Wade arrive?

13 A. No.

14 Q. You have, you can't testify via personal knowledge with
15 respect to how long Mr. Wade was there?

16 A. No.

17 Q. You can't tell us with whom he may have interacted prior
18 to your arrival?

19 A. I can tell you he told me who drove him there, but I
20 didn't see it.

21 Q. My question is during, you can't tell us how long he was
22 there?

23 A. I only think I watched him for like five minutes to eight
24 minutes, but prior to that, I don't know, sir.

25 Q. So my question was you can't tell us how long he was at

1 that address?

2 A. You know, at least five to eight minutes that I saw; prior
3 to that I don't know.

4 Q. And during his entire time there you can't tell us with
5 whom he interacted?

6 A. When I saw him he wasn't with anybody; he was just like
7 using a cell phone and looking around like he was waiting for a
8 car. And I didn't see him talk to anybody until he got into
9 the car with Mr. Wurie.

10 Q. But I'm asking you, you can't, he may have talked to other
11 people during the time --

12 A. Before I got there?

13 Q. Right.

14 A. Anything is possible. I didn't see it.

15 Q. So that's what my question is.

16 A. Sure.

17 Q. You can't testify that?

18 A. No.

19 Q. Right? You don't know where he came from prior to being
20 at the Lil' Peach store?

21 A. No.

22 Q. And same thing with the gentleman that he was with?

23 A. I don't know.

24 Q. You didn't search that gentleman?

25 A. No.

1 Q. You didn't search that gentleman's car?

2 A. I don't think we did, no.

3 Q. So when you talk about a conversation that you had with
4 Mr. Wade, you don't know if he was telling the truth?

5 A. Well, I can say that I've been doing this 23 years, and
6 I've made over--

7 Q. Sergeant,--

8 A. --8,000 arrests.

9 Q. --my simple question was --

10 A. I think he was.

11 Q. All right.

12 A. I've talked to a lot of people, if I was going to preface
13 this, and I get lied to a lot and a lot of people tell me the
14 truth. And, you know, anybody can be fooled because we're all
15 human, but I believed this guy. I believed what he was telling
16 me.

17 THE COURT: So when he was, could you just tell me,
18 when was he with someone else?

19 THE WITNESS: When he went into the Lil' Peach store,
20 Your Honor, there was a man inside that was waiting for him
21 that said that he was the one that drove Wade to the location.
22 So he got out of Wurie's car and went to retrieve his friend,
23 obviously, to get a ride back home.

24 THE COURT: Okay.

25 BY MR. BENZAN:

1 Q. But he didn't tell you that?

2 A. He said that's the man that drove me there; so that's what
3 I assumed. It could be because they were coming back out of
4 the store.

5 Q. Did you see both men leave?

6 A. No, I encountered them in the store.

7 Q. But you spoke to Mr. Wade outside?

8 A. In the store at first; then I brought him outside.

9 Q. All right. And then you told us just minutes ago that he
10 was allowed to leave that area?

11 A. He was.

12 Q. All right. And that other gentleman was allowed to leave
13 that area?

14 A. Yes.

15 Q. Okay. My question is did you see them both leave
16 together?

17 A. I don't remember.

18 Q. Now, you indicated that Officer Smigliani followed Mr.
19 Wurie from that area?

20 A. Yes.

21 Q. After he was seen?

22 A. Uh-huh.

23 Q. And that Mr. Wurie drove to a different location?

24 A. Yes.

25 Q. And at that different location Mr. Wurie was stopped and

1 arrested?

2 A. He U-turned and parked, and then he was arrested.

3 Q. And did you know the address of where he was arrested?

4 A. On Dorchester Street near the corner of Silva Street.

5 Q. In that packet, do you have his booking sheet, Mr. Wurie's
6 packet?

7 A. I probably do. Do I? I don't know.

8 MS. LUNDGREN: It's probably in an exhibit.

9 MR. BENZAN: May I approach the bench, Your Honor?

10 THE COURT: Yes.

11 BY MR. BENZAN:

12 Q. Do you recognize it what that piece of paper?

13 A. Yes.

14 Q. And is it fair to say that's the booking sheet?

15 A. Yes.

16 Q. Of Mr. Wurie?

17 A. Yes.

18 Q. And within that, on that booking sheet it tells us,
19 there's a--

20 A. Location of arrest.

21 Q. --an area where it says location of arrest?

22 A. Yes.

23 Q. And what does that booking sheet indicate for location of
24 arrest is?

25 A. It says Dorchester and Leeds Streets.

1 Q. In South Boston?

2 A. Yes.

3 Q. And what time was he, does it say that he was arrested?

4 A. It says 18:45.

5 Q. And what time was he booked?

6 A. 19:12.

7 Q. Is that--

8 A. I can assume that it says that.

9 Q. --is that your recollection that he was arrested around
10 18:45 or 6:45 at night?

11 A. I assume so if it says that there, but I don't know.

12 Q. And if it says that he was booked at 19:12 is that 7:12?

13 A. Yes.

14 Q. Is it the normal procedure that the person doing the
15 booking would make these entries as the booking procedure is
16 occurring?

17 A. Yes.

18 Q. Now, you told us that when Mr. Wurie was stopped and
19 arrested that certain items were taken from him at some point?

20 A. Yes.

21 Q. All right. You told us that monies were taken from him?

22 A. Money, two cell phones and keys.

23 Q. And that's all that was taken?

24 A. I believe so.

25 Q. And we'll talk about where and when those were taken from

1 him, but no weapons were found on him?

2 A. No weapons.

3 Q. Eventually, you put charges or placed charges, charged him
4 with some weapon charges?

5 A. Yes.

6 Q. And those weapon charges were a result of your search
7 warrant search?

8 A. Yes.

9 Q. And it says on your return to the search warrant that the
10 search occurred--

11 MR. BENZAN: If I may, Your Honor?

12 THE COURT: Yes, uh-huh.

13 BY MR. BENZAN:

14 Q. --on September 5th, 2007, correct?

15 A. 11 p.m., correct.

16 Q. 11 p.m. So is it fair to say that after 11 p.m. these
17 items all listed on your return were found?

18 A. Yes.

19 Q. And you already mentioned that the ammunition and the
20 firearm were located and reported on the search warrant return?

21 A. Yes.

22 Q. And you're certain that prior to 19 or 7:12 p.m. that
23 apartment was not searched?

24 A. No.

25 Q. Do you, can you tell us then why looking back at the

1 booking sheet that's timed at 19:12 why it indicates that in
2 the bottom section, why it's listed that Mr. Wurie is armed?

3 A. I don't know maybe based upon his past record or
4 something, you know, they usually, they can find histories of
5 people if they've attempted suicide, they'll note that or if
6 they're violent, maybe something in his past. I think he's got
7 something down on his record; that could be what it is.

8 Q. The--

9 MR. BENZAN: May I again approach, Your Honor?

10 THE COURT: You don't need to ask.

11 BY MR. BENZAN:

12 Q. This is another booking photo--

13 A. Okay.

14 Q. --booking sheet, right?

15 A. Yes.

16 Q. And for whom is that person?

17 A. Fred Wade.

18 Q. That indicates that Mr. Wade was indeed arrested, wasn't
19 he?

20 A. It appears so. I thought he was summonsed, but it's a
21 booking sheet for him, so.

22 Q. And the date of his arrest?

23 A. Same date.

24 Q. And the time of his arrest?

25 A. Same time.

1 Q. Same time, and it indicates that not only he was arrested
2 at the same time as Mr. Wurie; he was also, based on this
3 booking sheet, arrested at the same location as Mr. Wurie.

4 A. They just used the one intersection where the incident
5 started; they don't put where they're exactly apprehended so
6 the loner used Dorchester and Leeds. Say like --

7 Q. My --

8 A. --same length--

9 Q. --my question, Sergeant Murphy, was--

10 A. --this is Dorchester and Leeds.

11 Q. --this is what your report indicates the location of
12 arrest is at Dorchester and Leeds in South Boston?

13 A. Yes.

14 Q. That would be the same address where it indicates that Mr.
15 Wurie was arrested?

16 A. Yeah, but he wasn't arrested there; they just used that
17 thing. I thought we had summonsed Wade. We catch 500 people a
18 year. It's hard to remember.

19 MR. BENZAN: Motion to strike, Your Honor --

20 THE COURT: It's stricken.

21 MR. BENZAN: --everything after the--

22 BY MR. BENZAN:

23 Q. Looking back at this booking sheet for Mr. Wade, it
24 indicates his time of arrest as well?

25 A. Yeah, it did, 18:25.

1 Q. And when he was booked at what time?

2 A. 19:30, I can't read it, 6 I think.

3 Q. 19:30 or sometime after Mr. Wurie was booked?

4 A. Yes.

5 Q. You indicated that personal papers from 315 Silva Street
6 were some personal papers of Mr. Wurie were located?

7 A. Yes.

8 Q. But nothing that you found stated that Mr. Wurie, that was
9 his address?

10 A. I don't know; I'd have to look at them. I don't remember.

11 Q. But you can't testify to that today?

12 A. I haven't had any time to review this at all. I worked
13 until midnight last night. I did a training course all day
14 today--

15 Q. My--

16 A. --and just came here now, so--

17 Q. --so my question is--

18 A. --I just barely had time to read this.

19 Q. --all right, you can't testify?

20 A. No, I haven't seen any of it since this incident.

21 Q. The incident report that you looked at and testified to
22 with respect to the assault and battery charge dealing with Mr.
23 Wurie, you testified that it was a police chase?

24 A. Can I look at it again?

25 Q. Certainly.

1 A. Yeah. Yeah, it said led police on slow speed pursuit
2 through various streets of Dorchester and Roxbury.

3 Q. And they used the word slow?

4 A. That's what it says, yeah.

5 MR. BENZAN: One moment, Your Honor?

6 THE COURT: Yes.

7 MR. BENZAN: Thank you.

8 BY MR. BENZAN:

9 Q. Sergeant, you testified with respect to, to speaking to
10 Mr. Wurie at the police station?

11 A. Yes.

12 Q. So when he was at the police station there's a counter
13 where the booking procedure takes place?

14 A. There is.

15 Q. And were you present over where Mr. Wurie was booked?

16 A. I was, I don't remember if I was there when he was booked
17 or not, but I remember speaking to him in that area.

18 Q. And that booking procedure at that counter is where Mr.
19 Wurie's personal information is given?

20 A. Yes.

21 Q. His name, date of birth, all that information is taken at
22 that counter?

23 A. He's asked those questions and responds, and it's
24 recorded, yes.

25 Q. His personal belongings are taken from him at that

1 location?

2 A. Yes.

3 Q. The items you mentioned were taken into custody at the, at
4 the booking desk; is that right?

5 A. I don't know if they took them at the desk or not, but
6 they probably did.

7 Q. And is it your recollection that you were there when, at
8 the booking desk?

9 A. I don't remember. If I don't tell you, as I said, not to
10 make excuses, but we arrest a lot of people. It's just like
11 another day at the office. So they don't tell you who was
12 there on the booking sheet, but I remember speaking to him in
13 the holding cell area.

14 Q. And it's the normal procedure to take property at that, at
15 the booking desk?

16 A. For the most part, yes.

17 Q. And based on the booking report, Officer Boyle is the one
18 who searched Mr. Wurie?

19 A. Sir, if it says that then, yes.

20 Q. He was placed in the cell and read his rights by Officer
21 Smigliani?

22 A. He could have given him his rights too, but I told him his
23 rights. So oftentimes it happens a lot like I'll give him,
24 I'll always give somebody the rights to talk to, and then the
25 booking officer will give them their rights. And I just read

1 them to him verbatim because I can remember them, and I told
2 him. In other words, you don't have to say a thing.

3 Q. You indicated that the car that Mr. Wurie was seen driving
4 was taken from the location where he was found and brought to
5 different location?

6 A. Yeah, we usually grab them into the station and search
7 them.

8 Q. And you searched this car?

9 A. Yes.

10 Q. And there were no--

11 A. Nothing, no drugs.

12 Q. --record of drug distribution at all found in that car?

13 A. It was a nice clean rental car.

14 Q. And with respect to the items that you found of the search
15 of Mr. Wurie, you didn't find any drugs on him?

16 A. No drugs.

17 Q. You didn't find any drug paraphernalia by meaning any
18 plastic bags?

19 A. Just what I had mentioned earlier.

20 Q. You didn't find any drug notes or anything like that?

21 A. No.

22 Q. And you didn't mention that the monies found, the amount
23 of money found was just in, in one group, for lack of a better
24 word?

25 A. I don't think I was asked that, but I don't remember if it

1 was.

2 Q. But if it had been in different, separated in different
3 ways you would have remembered that; that would have been
4 noted?

5 A. It might have been noted, certainly.

6 Q. And it's not noted in your memory?

7 A. I don't remember, sir.

8 Q. You certainly didn't testify to it before any grand jury,
9 right?

10 A. I don't think I did, no.

11 MR. BENZAN: I have no other questions.

12 MS. LUNDGREN: The government has nothing further,
13 Your Honor. We're ready to argue with it.

14 THE COURT: You may step down.

15 THE WITNESS: Thanks.

16 WITNESS EXCUSED

17 THE COURT: Do you have any further witnesses?

18 MS. LUNDGREN: No further evidence, Your Honor. The
19 government's ready to argue detention if the Court would like
20 to hear.

21 THE COURT: Does the defendant have any witnesses?

22 MR. BENZAN: No witnesses, Your Honor.

23 THE COURT: Now, just tell me was there an interview
24 done?

25 MR. BENZAN: There was not.

1 THE COURT: Huh?

2 MR. BENZAN: No, there was not. I did, Your Honor,
3 speak just today with pretrial services about a possible
4 interview--

5 THE COURT: All right.

6 MR. BENZAN: --and would ask the Court to--

7 THE COURT: Let me tell you that there, I'm not going
8 to consider conditions of release without an interview. So do
9 you want to argue now, or do you want to go through the
10 interview and argue? What do you want to do?

11 MR. BENZAN: I would wait for the interview, Your
12 Honor, and ask, I would ask for that.

13 MS. LUNDGREN: Your Honor, the government can provide
14 just a very brief argument--

15 THE COURT: While it's fresh in your mind?

16 MS. LUNDGREN: --just so it's on the record. Well,
17 it's fresh in my mind.

18 THE COURT: All right. Why don't I do that? I'll
19 hear from the government. If you want to respond, fine, but
20 I'll allow you another opportunity--

21 MR. BENZAN: Thank you.

22 THE COURT: --when the, after the interview.

23 MS. LUNDREN: Your Honor, very briefly, as stated at
24 the initial appearance and arraignment, the government moved
25 for detention under three different factors and that's

1 3142(f)(1)(C), the fact that Mr. Wurie has been indicted for
2 Controlled Substances Act violation, under Subsection D he's
3 previously been convicted of two or more offenses of drugs or
4 violence, and in this case those being multiple violent
5 offenses, and under E this also involves a possession of a
6 firearm.

7 So when you're looking at the factors to be
8 considered by the Court in deciding whether or not to detain an
9 individual, first of all, Your Honor, in this case there is a
10 presumption based on two separate grounds, the presumption of
11 detention. One presumption is that he's previously been
12 convicted of prior felonies, violent felonies; and that's
13 Exhibit No. 5, I believe. He's been convicted of a least four
14 separate violent offenses. And again, Your Honor, the
15 presumption, the second presumption is that he has violated the
16 Controlled Substances Act in the current indictment. As to the
17 nature and circumstances of the offense, I would point out to
18 the Court that obviously here there is a significant amount of
19 crack cocaine, over 215 grams according to the state analysis
20 as well as a gun and several rounds of ammunition making that
21 gun ready to use.

22 The government would argue that the weight of the
23 evidence here is incredibly strong. We have seasoned drug
24 control officers were familiar with the area, familiar with the
25 way in which drugs are delivered and distributed seeing the

1 classic drug distribution, and then when they're executing the
2 search warrant finding very easily in the main bedroom where
3 there is pictures of Mr. Wurie, there's men's clothing
4 indicating that he had, in fact, was living there as well, some
5 statements of the woman who answered the door, Yolanda Walker,
6 saying that Mr. Wurie had just stayed there the night before,
7 in the bedroom is found the gun with crack cocaine.

8 As to the history and character of the defendant
9 another thing to take into account, Your Honor, is his criminal
10 history. As I mentioned he has four convictions for violent
11 offenses. He qualifies as a career offender and thus is
12 looking at significant time. In addition, Your Honor, he was
13 on probation for the assault and battery dangerous weapon which
14 is what Sergeant Detective Murphy testified to as hitting a,
15 excuse me, a uniformed police officer with a motor vehicle. So
16 he was on probation for that offense at the time that the
17 incident offense before this Court occurred.

18 And lastly, Your Honor, in terms of considering the
19 danger to community, again it's a drug and gun case. The drugs
20 plague neighborhood cities in Boston. Certainly having a gun
21 leads to violence and violent offenses. This is a gun that was
22 stolen from somebody's residence down in Georgia. So by virtue
23 of the fact that he is in possession of a firearm he is a
24 danger to the community.

25 THE COURT: Thank you. Do you want to be heard?

1 MR. BENZAN: With one respect, Your Honor, I would
2 be, I'd ask to be heard today, and that would be the, my
3 argument opposition with respect to the nature and
4 circumstances of the charges. I'd ask the Court to weight its
5 decision, it's future decision, heavily on the facts. And the
6 government points to the large amounts of cocaine that was
7 found at this location, and I would argue this, that it could
8 be ten times as much. It's not the amount that they found I
9 would ask, ask the Court to stress upon but rather the
10 connection between Mr. Wurie and the drugs that they found. I
11 would ask you, the Court to take special note of the lack of
12 connection with respect to Mr. Wurie in that the drugs that
13 were found, the lack of connection between the gun and Mr.
14 Wurie. There's absolutely no evidence before this Court that
15 Mr. Wurie had any knowledge with respect to either the drugs or
16 the gun. There's absolutely no evidence before this Court with
17 respect to what the government presented that would indicate
18 that Mr. Wurie knew about those contrabands, those items of
19 contraband or that he intended to possess them. So again the
20 only information that the Court has with respect to Mr. Wurie
21 and the drugs at that, at some point he was at that address; at
22 some point the police found those items at that address. But
23 there's nothing linking Mr. Wurie in a temporal issue or in a
24 temporal way of him being in the same place at the same time
25 with those items. He was arrested with common, everyday items,

1 with cash and a cell phone, items that every human being
2 practically in today's society has on them. Again, and there
3 was no, nothing else that's incriminating on Mr. Wurie. I
4 would save my other arguments with respect to his character and
5 his family and his background after he's been interviewed.

6 THE COURT: Okay. Can you do the interview today?

7 PRETRIAL SERVICES: Yes.

8 THE COURT: Thank you. When do you want to come back
9 to argue, counsel?

10 MR. BENZAN: I can be here tomorrow afternoon, Your
11 Honor. The government--

12 MS. LUNDGREN: I apologize, Your Honor. I don't want
13 to throw a monkey wrench into the schedule. That's a little
14 bit tough for me. I could do Thursday afternoon?

15 MR. BENZAN: I can't do Thursday.

16 MS. LUNDGREN: Friday afternoon?

17 MR. BENZAN: Friday is okay.

18 MS. LUNDGREN: I could do Friday afternoon, Your
19 Honor.

20 THE COURT: All right. We'll, umm, Friday at 3:30,
21 and actually you can, if you can, you want to do the interview
22 on Friday?

23 PRETRIAL SERVICES: Oh, I'm not here on Friday.

24 THE COURT: Okay, so you'll do it--

25 PRETRIAL SERVICES: --(inaudible - #4:20:31). If you

1 want to wait until Friday to have your interview done. If
2 he's brought in early, then Officer O'Brien whose case it is
3 could do the interview at that time.

4 THE COURT: How are we doing for time?

5 THE MARSHALL: On Friday?

6 THE COURT: No, no for now. Do we have time, can we
7 keep him here?

8 THE MARSHAL: No. I believe they're going to be
9 leaving as soon as this hearing is over, but on Friday we'll be
10 in here first thing in the morning and can talk to him then.

11 THE COURT: All right.

12 MR. BENZAN: Your Honor, can I go back to Thursday
13 afternoon?

14 THE COURT: Yes.

15 MR. BENZAN: Thanks.

16 THE COURT: I think so. What do we have on Thursday?
17 All right so let's do Thursday then at 2:30, and bring him in
18 early on Thursday. Can you do the interview Thursday morning?

19 PRETRIAL SERVICES: YES.

20 THE COURT: Okay so the interview will take place
21 Thursday morning. Okay and we'll have the continued argument
22 only at 2:30 on Thursday.

23 MS. LUNDGREN: Thank you, Your Honor.

24 THE CLERK: Court's in recess.

25 //

CERTIFICATION

I, Maryann V. Young, court approved transcriber, certify that the foregoing is a correct transcript from the official digital sound recording of the proceedings in the above-entitled matter.

/s/ Maryann V. Young

December 1, 2008

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